

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS  
LIABILITY LITIGATION

MDL No. 2419  
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**THE PLAINTIFFS' STEERING COMMITTEE'S PROPOSED AGENDA  
FOR THE FEBRUARY 8, 2017 STATUS CONFERENCE AND DISCOVERY HEARING**

The Plaintiffs' Steering Committee ("PSC") proposes the following agenda for the February 8, 2017, status conference (Courtroom 3, 2:00 p.m.) and discovery hearing (Courtroom 14, 11:45 a.m.). The remaining defendants and the plaintiffs' groups identified below have been given an opportunity to comment on this proposed agenda.

**A. ORAL ARGUMENT SET FOR DISCOVERY HEARING**

1. PSC's Motion for Sanctions [Dkt. 3232] (fully briefed)<sup>1</sup>

*Gerard Stranch; Chris Tardio*

- a. Specialty Surgery's Opposition [Dkt. 3254]
- b. PSC's Reply [Dkt. 3282]

**B. ORAL ARGUMENT REQUESTED DURING STATUS CONFERENCE**

*Gerard Stranch; Chris Tardio*

1. PSC Motion for Judgment on the Pleadings Regarding Comparative Fault Defenses Attributing Fault to Governmental Entities [Dkts. 3249, 3250] (fully briefed)
  - a. Specialty Surgery Opposition [Dkt. 3278]
  - b. Calisher & Associates Joinder [Dkt. 3279]
  - c. PSC Reply [Dkt. 3288]

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<sup>1</sup> Scheduled for oral argument during February 8, 2017 status conference [Dkt. 3267].

**C. REPORT TO THE COURT**

1. Status of payments from Tort Trust (forthcoming)  
*Michael Fencer on behalf of the Tort Trustee, Lynne Riley*
  - a. Status report
  - b. Tort Trustee's Notice of Retention of Michael Fencer, Esq. and Casner & Edwards, LLP [Dkt. 3294]
2. Status of Specialty Surgery cases  
*14 cases; Gerard Stranch; Chris Tardio*
  - c. Specialty Surgery's Motion for Costs [Dkts. 3247-48]
    - i. PSC's Response [Dkt. 3286]
  - d. Specialty Surgery's Motion to Dismiss *Keyes* case [Dkt. No. 1:13-cv-12998] for Failure to Comply with T.C.A. 29-26-122 – Unopposed
    - i. PSC Opposition [3281]
  - e. Bellwether Selection Process
3. Status of Box Hill cases  
*8 cases: Patti Kasputys & Michael Coren (Plaintiffs); Greg Kirby (Defendants)*
  - a. Box Hill and Plaintiffs' Notice of Proposed Bellwether Candidate Cases [Dkts. 3202 and 3206]
  - b. Order denying consolidation of Box Hill cases for trial [Dkt. 3269]
  - c. Third Amended Order Setting Discovery Deadlines [Dkt. 3301]
4. Status of Ocean State cases<sup>2</sup> (remanded)  
*2 cases: Timothy Wickstrom; Sean Capplis*
  - a. Plaintiffs' Proposed Scheduling Order [Dkt. 3142]
  - b. Ocean State Response [Dkt. 3165]
  - c. Order granting remand (*Simas v. Barakat*, 13-cv-10943) [Dkt. 3270]
5. Status of directly-filed cases:<sup>3</sup>

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<sup>2</sup> *Simas v. Barakat et al.*, 13-cv-10943; *Hanson v. Ocean State Pain Mgmt., P.C.*, 13-cv-10685.

<sup>3</sup> All directly filed cases are listed in Notice by the PSC of Cases Filed Directly in the District of Massachusetts [Dkt. 3065].

a. Janet Jenner and Suggs cases

*Kim Dougherty/Justin Browne (plaintiffs); Tony Abeln (APAC); Clare Carroll (MAPS)*

i. Plaintiffs' counsel filed motions to withdraw in the cases against APAC (*Kennedy* and *Musselwhite*) and Premier (*Overstreet*) [Dkts. 1:13-cv-13227; 1:14-cv-13689; 1:13-cv-13228; 1:14-cv-13676; and 1:14-cv-13760].

A. Plaintiffs Kennedy and Musselwhite have located new counsel who is in the process of filing notices of appearance. Once new counsel has filed his notices of appearance, Janet, Jenner & Suggs request that their Motion to Withdraw be granted at 14-cv-13689, Dkt. 23 (Kennedy), 14-cv-13676, Dkt. 25 (Musselwhite).

B. Plaintiff Overstreet is in the process of locating new counsel. Plaintiffs' counsel's motion to withdraw is at 14-cv-13760, Dkt. 25. Plaintiffs' counsel request remand be deferred until Plaintiff is able to locate new local PA counsel.

ii. MAPS unopposed motion for entry of final judgment (*Edwards v. MAPS*, 13-cv-13209) [Dkt. 3283]

b. Premier cases<sup>4</sup> (dismissed or removed)

*3 cases: Lauren Davis; Chris Wolk*

c. Other directly-filed Andrews Thornton and Higgins Razmara cases<sup>5</sup>

*3 cases, Lauren Davis; various defense counsel*

i. *Gibson v. Liberty Industries*, 1:14-cv-11856 – Parties have agreed to transfer to Ohio District Court

6. Status of Donald Jones Cases

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<sup>4</sup> *Guzman v. NECC*, 1:12-cv-12208) [Dkt. 3273] has been dismissed by the court; *Parkell v. UniFirst Corp.*, 1:14-cv-13640 [Dkt. 3275] and *Drain v. UniFirst Corp.*, 1:14-cv-13673 [Dkt. 3275] were removed.

<sup>5</sup> Two cases have been dismissed by the Court: (*Patel v. OSMC*, 1:14-cv-13708) [Dkt. 3272]; and (*Moore v. UniFirst*, 1:14-cv-13027) [Dkt. 3274].

*2 cases: Kim Dougherty (Seiber); Loring Justice/Chad Rickman (Daugherty); Chris Tardio (Donald Jones)*

- a. Donald Jones Motion to Transfer (Daugherty v. Jones, 14-cv-10430) [Dkt. 3287]
- b. Donald Jones Notice of Filing Proposed Order of Dismissal (*Seiber*, 14-cv-10273) [Dkt. 3299] (plaintiff consents to dismissal)
7. Status of St. Thomas settlement  
*Gerard Stranch; Chris Tardio & Yvonne Puig*
  - a. Unopposed Motion for Establishment of Qualified Settlement Fund (forthcoming)
8. Plaintiffs' Motion to Ascertain Status of Payments from Tort Trustee [Dkt. 3298]

**D. OTHER MATTERS**

1. PSC's Additional Notice Regarding Discovery Information Stored in U.S. Legal Repository [Dkt. 3263]
2. Post-Confirmation Officer's Notice Regarding Further Relief From Preservation Order [Dkt. 3136]
3. Order denying Chin preservation request [Dkt. 3271]

**E. FUTURE STATUS CONFERENCES**

1. March 30, 2017, 2:00 p.m.

Dated: February 7, 2017

Respectfully submitted,

**/s/ Kristen A. Johnson**

Thomas M. Sobol, BBO # 471770

Kristen A. Johnson, BBO # 667261

HAGENS BERMAN SOBOL SHAPIRO  
LLP

55 Cambridge Parkway, Suite 301

Cambridge, MA 02142

(617) 482-3700

tom@hbsslaw.com

kristenj@hbsslaw.com

*Plaintiffs' Lead Counsel on behalf of the  
Plaintiffs' Steering Committee*

**CERTIFICATE OF SERVICE**

I, Kristen A. Johnson, hereby certify that I caused a copy of the foregoing to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: February 7, 2017

**/s/ Kristen A. Johnson**

Kristen A. Johnson (BBO# 667261)